IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2335 OF 2024

Devi Construction Limited
Liability Partnership ...Petitioner

Vs.

1. State of Maharashtra
2. Add. Chief Secretary (Revenue),
Revenue and Forest Department
3. Deputy Superintendent of Land Records
4. The Superintendent of Land Records
5. The deputy Director of Land Records
(Pune Division)
6. Office of the settlement Commissioner
and Director of Land Records (M.S.)
Pune ...Respondents

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Mr. Abhishek Salian a/w Mr. Mayuresh Ingale, Kinnari Raut i/by Venkatesh Shinde - for the Petitioner.
Shri N. C. Walimbe – Addl. GP with Smt. R. M. Shinde – AGP for Respondent-State

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CORAM : M. S. KARNIK AND S. M. MODAK, JJ.

DATE : 16th APRIL 2026

<u>ORDER</u> :(PER S. M. MODAK, J.)

1. The issue involved in this petition is whether '*the Respondents can be directed to measure Pot Hissa belonging to the Petitioner by surveying demarcating and sub-dividing the Pot Hissa from larger* *piece of land'*. Though the Petitioner applied for measurement of the Pot Hissa to the office of Deputy Superintendent of Land Records, Maval, District Pune and though the surveyors have visited the site on three occasions, nothing fruitful has happened as anticipated by the Petitioner. Hence, the present petition is filed.

2. One of the reply given by the said office is dated 28.11.2023. Letter mentions that '*the Petitioner was not desirous to demarcate the boundaries of the Pot Hissa and he has stated so*'. The Petitioner is disputing this contention and raising serious doubt about bonafides of the survey officials.

3. This Court as per the order dated 23.01.2026 was pleased to direct learned Additional Chief Secretary (Revenue), Revenue and Forest Department to file an affidavit personally. The learned Additional Chief Secretary was asked to clarify whether measurement charges are to be paid every now and then as per whims and caprices of Respondent No. 3 to 6. The Additional Chief Secretary has filed an affidavit affirmed on 17.02.2026. He has candidly admitted that the Deputy Superintendent of Land Records, Maval has not followed the directions issued vide Circular dated 06.02.2010, and it is of serious nature and he is responsible for the same. At the same time, the Additional Chief Secretary has emphasized that "*Area recorded in the Akarband has not tallied with the areas recorded in all the 7/12 extracts of Survey No. 112 and this discrepancy was noticed at the time of measurement*". Learned AGP has invited our attention to the provisions of Section 135 of the Maharashtra Land Revenue Code, 1966 as concerned parties are required to make an application for correction to the Collector/District Superintendent of Land Records.

4. On this background, we have heard learned Advocate Shri Abhishek Salian for the Petitioner and learned AGP for Respondent-State.

5. Respondent No. 1 is the State of Maharashtra. Respondent No. 2 is Add. Chief Secretary (Revenue), Revenue and Forest Department. Respondent No. 3 is the Deputy Superintendent of Land Records. Respondent No. 4 is the Superintendent of Land Records, Respondent No. 5 is the Deputy Director of Land Records (Pune Division) and Respondent No. 6 is office of the settlement Commissioner and the Director of Land Records (M.S.), Pune.

6. We have perused the averments made in the petition, the replies filed on behalf of the Respondents, and we have gone through the record made available.

7. On three occasions the surveyor visited the site for the purpose of measurement, i.e. 06th May 2022, 18th August 2023, and on 17th November 2023. The happenings of events on those dates as pleaded in the affidavit-in-reply are as follows:-

a) On 06th May 2022 measurement was carried out as per the possession shown by the partner of the Petitioner. However, when the record is verified, it was noticed that the area as per 7/12 extract and area as per Akarband Patrak does not match with each other. That is why, the exact area of the land measured could not be finalized.

b. On 18th August 2023, when the survey officials visited the spot, measurement could not be completed due to continuous rains.

c. On 17th November 2023, learned advocate Mrs. Rema for the Petitioner visited the site. However, the area of the land was not shown to her.

8. From the petitioner's perspective, some relevant facts need to be stated. They are as follows:-

a. The Petitioner who is limited liability Partnership firm owns and in possession of piece and parcel of land bearing survey no. 112/2/A/2, 112/2/B, 112/1/1/2, 112/2A/1/2A/2/2/2 and 112/2/A/4 situated at revenue village Vadgoan, Taluka Maval, District Pune.

b. Petitioner has purchased those lands vide separate sale deeds description is given in para no. 5.1 of their rejoinder.

c. The land was mutated in their name on 7/12 extract.

d. As per the order of Tahsildar dated 28.01.2017 the land is mutated in the name of the Petitioner in the Revenue record as per mutation entry no. 10666.

e. The Petitioner possesses demarcation map (Ka-patrak) which was prepared bearing M. R. No. 1736 of 2019.

f. In the said map boundaries of entire survey no. 112 are shown and there is Phalni map of entire Survey no. 112.

g. Total of land purchased by the Petitioner as per 7/12 extract comes to 9 H 62 R. 94.28 sq. mtrs..

h. The Petitioner relies upon GR dated 29.09.2002 and GR dated 29.09.2018 which lays down the procedure to be followed while conducting Pot Hissa mojani. It casts an obligation on the Talathis to maintain register of new Hissas and forward the same to District Inspector of Land Records. In this petition, we are not dealing with the issue whether revenue officials have failed in their duty.

i. Those GRs no where contemplated co-relation of

Pot hissa mojani and Akarband patrak.

9. It will be relevant to consider the averments made in the affidavit-in-reply. As mentioned above, discrepancies are found in the area recorded in the 7/12 extract and the Akarband Patrak. The order dated 06.02.2010 issued by the Settlement Commissioner and Director of Land Records and directions given by learned Joint Secretary, Revenue to the Settlement Commissioner dated 12.02.2026 are annexed to the affidavit-in-reply filed by learned Additional Chief Secretary.

10. The Revenue officials maintain 7/12 extract. Whereas maps are maintained by Survey officials. The area on 7/12 extract is recorded on the basis of the area mentioned in the registered documents. Whereas survey officials maintain the record relating to map prepared on the basis of actual measurement. The maps are prepared by measuring the land after visiting the spot, and this measurement takes place on the basis of vahivat shown by the possessors. The possessors/purchasers get knowledge of the vahivat on the basis of the information provided by the vendor. But the survey officials do not proceed on the basis of the area shown in the document or on the 7/12 extract, the actual area is ascertained at the time of measurement conducted on site.

11. When the survey officials visit the spot, they comply with certain formalities there and then only they used to verify the findings and correlate it to the area shown in the maps possessed by them. If there is discrepancy, it is bounden duty to point out to the possessor. Sometimes the area found at the spot may be less than the area shown on 7/12 extract and sometimes it may be more than the area shown on 7/12 extract. If there is such an occasion (dispute about area of survey number or sub-division of survey number), the collector is empowered to decide such dispute as per the provisions of Section 135 of Maharashtra Land Revenue Code.

12. For the above reasons, we are not inclined to issue Writ of Mandamus thereby ordering afresh measurement of Pot Hissa because it will not serve any purpose. The discrepancy in between the area cannot be removed by fresh measurement but the Petitioner is required to take appropriate steps by initiating appropriate proceedings before the appropriate authority.

13. In fact, these issues can be decided by the concerned authority as per Maharashtra Land revenue Code and Writ is not the proper remedy.

14. For the above discussion, we are not inclined to allow this petition. Hence, it is dismissed.

15. It is very well true that learned Additional Chief Secretary in para no. 10 of its affidavit has affirmed that action of collecting revisit measurement fees needs to be examined again. He wants to suggest that the Deputy Superintendent of Land Record is not justified in insisting upon revisit measurement charges. In view of that we deem it appropriate to grant liberty to the Petitioner to apply for refund of revisit measurement charges before the Deputy Director of Land Records, Pune Division-Respondent No. 5 within the period of three weeks from today and he is directed to decide such request if made within a period of six weeks thereafter. We have not made any comments about quantum of refund of revisit charges, but we have left it to his decision.

(S. M. MODAK, J.) **(M. S. KARNIK, J.)**